

Exhibit E

Svetlin Petkov – February 5, 2020

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 IN RE:)
4)

5 CUSTOMS AND TAX ADMINISTRATION OF)
6 THE KINGDOM OF DENMARK)
(SKATTEFORVALTNINGEN) TAX REFUND)
SCHEME LITIGATION)

CASE NO.
18-MD-2865 (LAK))

7 This document relates to case nos.)
18-CV-05308; 18-CV-05309; 18-CV-05305;)
8 18-CV-05299; and 18-CV-05300)
9)

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14
15 VIDEOTAPED DEPOSITION UNDER ORAL EXAMINATION OF

16 SVETLIN PETKOV

17 February 5, 2020
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24 REPORTED BY: MICHAEL FRIEDMAN, CCR
25

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1 SVETLIN PETKOV,

2 called as a witness, having been first
3 duly sworn according to law, testifies as follows:
4

5
6 MR. WEINSTEIN: Great. Before we
7 start, just -- I had a discussion with
8 Mr. Allison about objections for
9 depositions, so we'll just put it on the
10 record that we agree that an objection
11 by one counsel will be an objection for
12 all counsel to preserve it for everybody
13 so that we don't need to have multiple
14 folks chiming in with objections.

15 And so, unless I hear an objection
16 to that, we'll proceed on that basis.
17 Okay, great.

18
19 EXAMINATION BY MR. WEINSTEIN:

20 Q Good morning, Mr. Petkov?

21 A Good morning.

22 Q You get the prize for being the
23 first. Somebody had to do it, so thank you
24 for doing that.

25 So as we proceed today, I'm going

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1 Q Where there's discussion about the
2 power of attorney.

3 Do you see that?

4 A I do.

5 Q In that e-mail, Mr. Toffel is
6 stating to Mr. Protass that perhaps he should
7 call the lawyer "and see what they can do to
8 make you comfortable."

9 Do you see that?

10 A I do.

11 Q Do you recall having any
12 discussions with Mr. Protass about that?

13 A I do not.

14 Q Having seen this e-mail, do you now
15 recall having any discussions with
16 Mr. Protass about the limited power of
17 attorney?

18 A I don't remember that far back. I
19 mean, I see the e-mail, but I don't remember.

20 Q Do you recall him expressing any
21 concerns to you?

22 A I do not.

23 Q Do you recall how many pension
24 plans you established in connection with this
25 dividend arbitrage strategy?

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1 A In which year? 2014?

2 Q Let's start with that, sure.

3 A Two in 2014.

4 Q Which ones were those?

5 A The Petkov Management, and I

6 believe it was the SPP or the SPKK.

7 I'm not sure.

8 Q Did you establish any additional
9 plans after 2014 in connection with the
10 dividend arbitrage strategy?

11 A I established three more plans that
12 were a part of the dividend strategy, yes.

13 Q Do you recall the names of those
14 plans?

15 A SVP, KASV, and Petkov Partners, I
16 believe.

17 Q So you had mentioned earlier one
18 name, SPKK?

19 A Yes.

20 Q What did that stand for?

21 A My initials and my wife's initials.

22 Q And her name is Kara Kennedy?

23 A That's right.

24 Q The SVP Plan, what does that stand
25 for?

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1 consulting fees for services provided to
2 Mr. Godson through this LLC?

3 A I mean, they were paid to me. I
4 don't know what do you mean, "earned."

5 Q For what reason did you get paid
6 consulting fees?

7 A I don't remember exactly how
8 my agreement -- what conversations I had with
9 Mr. Godson at the time.

10 Q When did you establish this
11 consulting arrangement?

12 A Somewhere around 2014. I don't
13 remember exactly.

14 Q How much did he pay you?

15 A \$50,000, around \$50,000.

16 Q Was that a one-time payment?

17 A It was, yes.

18 Q Other than the \$50,000 that
19 Mr. Godson paid this LLC, did the LLC earn
20 any other money?

21 A I don't remember, no.

22 Q Did the LLC have any employees?

23 A Just me.

24 Q Did it issue any W-2s?

25 A No.

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1 But I don't remember exactly why I
2 used these specific banks.

3 Q I'm going to hand you a document to
4 be marked as Exhibit 11.

5 (Whereupon the above mentioned was
6 marked for Identification.)

7 Q Exhibit 11 has the Bates number
8 SPKK 251 through 380. I do not plan on
9 having you look at each page unless you need
10 to.

11 A Okay.

12 Q What is Exhibit 11?

13 A It looks like it's the documents
14 for the SPKK 401(k) Plan.

15 Q Did you execute this document, if
16 you look at the last page?

17 A Yes, I did.

18 Q Was the plan established in July of
19 2014?

20 A It looks that way, yes.

21 Q Why did you establish a second plan
22 in July of 2014?

23 A I don't remember exactly.

24 Q Do you recall any purpose other
25 than to implement the dividend arbitrage

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1 strategy?

2 MR. ALLISON: Object to form.

3 A No, I don't remember what I was
4 thinking exactly back then.

5 Q Was at least one purpose the
6 implementation of the dividend arbitrage
7 strategy?

8 A Yes, that's right.

9 Q Okay. And as you sit here today,
10 you just don't recall any other purposes?

11 A I mean, I don't specifically recall
12 anything else, no.

13 Q Who were the plan participants of
14 the SPKK, LLC 401(k) Plan?

15 A I was.

16 Q Anyone else?

17 A No.

18 Q And it states at the top that
19 SPKK, LLC is a Missouri LLC?

20 A That's right.

21 Q And why was this particular LLC
22 established in Missouri?

23 A I forget exactly, but I believe it
24 had to do with the expediency or the cost of
25 opening an LLC, which is cheaper there. It

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1 may have been faster as well.

2 Q Was SPKK, LLC, other than being a
3 mouthful, the plan sponsor for the SPKK, LLC
4 401(k) Plan?

5 A Yeah, it was.

6 Q Did the SPKK, LLC have any
7 business?

8 A I don't remember.

9 Q Do you recall if that LLC generated
10 any income?

11 A I don't remember.

12 Q Did it have any employees?

13 A Just me.

14 Q What were you employed to do by the
15 SPKK, LLC?

16 A I believe I was the owner, the
17 managing partner. I forget exactly what my
18 title was for it.

19 Q Did you operate any kind of
20 business through the SPKK, LLC?

21 A I don't recall, no.

22 Q Do you see in Paragraph B on the
23 first page, it's entitled "Exclusive
24 Benefit"?

25 And it says, "The plan shall be

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1 MR. ALLISON: Object to form.

2 A I didn't put up any of my personal
3 money upfront, no.

4 Q Okay. And did the plans that you
5 formed put up any money --

6 MR. ALLISON: Object to form.

7 Q -- for the trading?

8 MR. ALLISON: Object to form.

9 A I don't know. I'm not sure how the
10 trading happened.

11 Q As far as you know, though, the
12 plan -- you didn't provide any liquidity or
13 funding to the plan for it to enter into an
14 investment?

15 MR. ALLISON: You mean,

16 Mr. Petkov --

17 (Whereupon a discussion was held
18 off the record.)

19 A Sorry. Could you repeat?

20 Q Sure. You personally did not put
21 up any funding or capital in order to cause
22 the plans to trade.

23 Is that right?

24 MR. ALLISON: Object to form.

25 A I did not put any personal money

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1 into the custodian accounts at Solo. No, I
2 did not.

3 Q And did the LLCs, the plan
4 sponsors, provide funding for the plan in
5 order for it to enter into the transactions
6 that were done on its behalf?

7 MR. ALLISON: Object to form.

8 A No, no.

9 Q So when you talk about potential
10 losses from the trading, if losses were
11 generated, who would pay?

12 A Well, the plans would suffer
13 losses, right, and the plan, that would be --
14 would be in a deficit. Also, you know, to
15 the extent that the trades were settled or
16 financed, there will be somebody who will
17 have to take that loss, either the provider
18 or the -- or whoever is providing financing
19 that would bear the economic loss, I would
20 imagine.

21 Q To the extent that the plan would
22 bear the economic loss, did any of these
23 plans have the means to cover those losses?

24 MR. ALLISON: Object to form.

25 A There wasn't -- I mean, the

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1 you were referring to the custody accounts.

2 I'm sorry.

3 Q Okay. So fair enough. I want to
4 make sure we're on the same page.

5 How many custody accounts are you
6 aware of having been opened at -- on behalf
7 of your five plans?

8 A I don't know. I'm not aware.

9 Q Okay. Do you know if any were?

10 A Not for a fact, no.

11 Q Okay. As far as you know, did any
12 of your plans' bank accounts, the bank
13 accounts that you're aware of, receive money
14 from any custodian related to this dividend
15 strategy?

16 A Not that I'm aware of.

17 Q Did you personally receive money
18 from any custodian in connection with the
19 dividend strategy?

20 MR. ALLISON: I'm sorry. You're
21 asking directly from the custodian to
22 him personally?

23 MR. WEINSTEIN: Yeah.

24 A No, I did not.

25 Q Okay. And other than the 600,000

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1 from Mr. Lehman, and then the 50,000 from
2 Mr. Godson, forgetting about where they may
3 have gotten the money, did you or your plans
4 receive money from any other entities in
5 connection with the dividend strategy?

6 A No.

7 Q Or from any other individuals?

8 A No.

9 Q I'm going to hand you a document
10 that will be marked as Exhibit 34.

11 (Whereupon the above mentioned was
12 marked for Identification.)

13 Q Are you familiar with Exhibit 34?

14 A (Witness reviewing.)

15 No, I'm not.

16 Q Have you ever seen it before?

17 A No, I don't believe so.

18 Q It appears to be a statement of
19 some sort from Solo Capital for the Petkov
20 Management, LLC 401(k) plan. And I'll just
21 identify the Bates on this. It's
22 PETK_MAN 1295.

23 To the extent this was produced on
24 behalf of the Petkov Management Plan, did it
25 come from any -- well, did it come from you

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1 Q This document has the backwards
2 Bates numbering of -- and that's our doing --
3 PETK_MAN 1292, and then an attachment that's
4 1291.

5 The cover e-mail starts with an
6 e-mail from Ganymede Cayman to the
7 Trading@Petkov Management.com e-mail account.

8 Do you see that?

9 A I do.

10 Q Do you know what Ganymede is?

11 A No, I do not.

12 Q In 2014, had you heard about
13 Ganymede?

14 A I don't believe I had, no.

15 Q It says that it's attaching an
16 invoice for amounts payable under the
17 services agreement.

18 Were you aware of any services
19 agreement between Ganymede and the Petkov
20 Management Plan?

21 A No, I was not.

22 Q And it refers specifically to an
23 "Invoice 366" which appears to be what's
24 attached.

25 Do you see that?

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1 A Yes, I do.

2 Q And it's for an amount that seems
3 to match the amount that was on that account
4 statement, the prior exhibit, which
5 was -- said it was referencing an
6 Invoice 366.

7 A Oh, okay. Yes, I see it.

8 Q You see that?

9 A I do.

10 Q Do you know why, according to these
11 documents, the Petkov Management Plan paid
12 Ganymede Cayman Limited 32.2 million kroner
13 in August of 2014?

14 A I do not.

15 Q Do you know anyone who is
16 associated with that entity?

17 A I do not.

18 Q If I were to ask you about the
19 trading activity for any of the five plans,
20 would your answers be the same, you weren't
21 aware of any of the specifics?

22 Is that fair?

23 A That's fair.

24 Q Okay. We don't have to go through
25 a bunch of them that to determine that you